

PACIFIC TRIAL ATTORNEYS  
A Professional Corporation  
Scott J. Ferrell, Bar No. 202091  
sferrell@pacifictrialattorneys.com  
4100 Newport Place Drive, Ste. 800  
Newport Beach, CA 92660  
Tel: (949) 706-6464  
Fax: (949) 706-6469

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

SHELLY ROBINSON, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

THE J.M. SMUCKER COMPANY, an  
Ohio corporation; and DOES 1 through 10,  
inclusive,

Defendants.

Case No. 4:18-cv-04654-HSG

**CLASS ACTION**

**FIRST AMENDED COMPLAINT FOR  
DAMAGES AND INJUNCTIVE  
RELIEF**

**JURY TRIAL DEMAND**

1 Plaintiff Shelly Robinson (“Plaintiff”), individually and on behalf of all others  
2 similarly situated, alleges the following on information and belief:

### 3 INTRODUCTION

4 1. Defendant The J.M. Smucker Company (“Defendant”) manufactures,  
5 markets, and sells olive oil labeled as “Crisco 100% Extra Virgin Olive Oil No-Stick  
6 Spray” (“Crisco EVOO”).

7 2. In reality, extensive clinical testing conducted by a leading laboratory –  
8 measuring the key variables of (1) Insoluble Impurities; (2) Free Fatty Acid, (3)  
9 Peroxide Value (Acetic Acid-Isooctane Method), (4) Specific Extinction, Ultraviolet  
10 Absorption, (5) Sensory analysis, (6) Copper (ICP-AES), and (7) Moisture & Volatile  
11 Content – conclusively establishes that Crisco EVOO is not Extra Virgin Olive Oil.

12 3. Defendant’s misrepresentations regarding Crisco EVOO are designed to,  
13 and did, lead Plaintiff and others similarly situated (collectively the “Class”) to believe  
14 that Crisco EVOO in fact is Extra Virgin Olive Oil. Plaintiff and members of the Class  
15 relied on Defendant’s misrepresentations and would not have paid as much, if at all, for  
16 Crisco EVOO but for Defendant’s misrepresentations.

17 4. Plaintiff brings this class action lawsuit to enjoin the ongoing deception of  
18 consumers by Defendant, and to recover the money taken by this unlawful practice.

### 19 JURISDICTION AND VENUE

20 5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332,  
21 because this is a class action, as defined by 28 U.S.C § 1332(d)(1)(B), in which a  
22 member of the putative class is a citizen of a different state than Defendant, and the  
23 amount in controversy exceeds the sum or value of \$5,000,000, excluding interest and  
24 costs. See 28 U.S.C. § 1332(d)(2).

25 6. The Court has jurisdiction over the state law claim because it forms part of  
26 the same case or controversy under Article III of the United States Constitution.

27 7. The Court has personal jurisdiction over Defendant because its Crisco  
28 EVOO product is advertised, marketed, distributed and sold throughout the State of

1 California; Defendant engaged in the wrongdoing alleged in this Complaint throughout  
2 the United States, including in the State of California; Defendant is authorized to do  
3 business in the State of California; and Defendant has sufficient minimum contacts with  
4 the State of California, rendering the exercise of jurisdiction by the Court permissible  
5 under traditional notions of fair play and substantial justice. Moreover, Defendant is  
6 engaged in substantial activity within the State of California.

7 8. Venue is proper in the United States District Court for the Northern  
8 District of California pursuant to 28 U.S.C. § 1391(b) because a substantial part of the  
9 events giving rise to the claims occurred within this judicial district, Defendant has  
10 marketed and sold the Crisco EVOO product at issue in this action in this judicial  
11 district, and it conducts business within this judicial district.

#### 12 **PARTIES**

13 9. Plaintiff Shelly Robinson is a citizen of the State of California and resides  
14 in Brentwood, California. Plaintiff purchased the Crisco EVOO product for personal  
15 consumption during the last four years at Wal Mart in Antioch, California, and other  
16 locations within the Northern District of California.

17 10. Plaintiff is informed and believes, and upon such information and belief  
18 alleges, that Defendant The J.M. Smucker Company is an Ohio corporation with its  
19 principal place of business located in Orrville, Ohio. Plaintiff is informed and believes,  
20 and upon such information and belief alleges, that Defendant, at all times relevant,  
21 conducted business in the State of California and within the Northern District of  
22 California.

23 11. The true names and capacities of the Defendants sued herein as DOES 1  
24 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such  
25 Defendants by fictitious names. *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir.  
26 1980). Each of the Defendants designated herein as a DOE is legally responsible for  
27 the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this  
28

1 Complaint to reflect the true names and capacities of the DOE Defendants when such  
2 identities become known.

3 12. At all relevant times, each and every Defendant was acting as an agent  
4 and/or employee of each of the other Defendants and was acting within the course  
5 and/or scope of said agency and/or employment with the full knowledge and consent of  
6 each of the Defendants. Each of the acts and/or omissions complained of herein were  
7 alleged and made known to, and ratified by, each of the other Defendants (The J.M.  
8 Smucker Company and DOE Defendants will hereafter collectively be referred to as  
9 “Defendant”).

### 10 **FACTUAL ALLEGATIONS**

11 13. Defendant manufactures, markets, and sells Crisco EVOO as Extra Virgin  
12 Olive Oil.

13 14. Plaintiff purchased and consumed the Crisco EVOO product multiple  
14 times during 2017 and 2018 in reliance on Defendant’s advertising and labeling of the  
15 “Crisco EVOO” product as Extra Virgin Olive Oil.

16 15. As noted above, extensive clinical testing conducted by a leading  
17 laboratory – measuring the key variables of (1) Insoluble Impurities; (2) Free Fatty  
18 Acid, (3) Peroxide Value (Acetic Acid-Isooctane Method), (4) Specific Extinction,  
19 Ultraviolet Absorption, (5) Sensory analysis, (6) Copper (ICP-AES), and (7) Moisture  
20 & Volatile Content – conclusively establishes that Crisco EVOO is not Extra Virgin  
21 Olive Oil. Accordingly, Defendant’s statements that the “Crisco EVOO” product is  
22 Extra Virgin Olive Oil are false and misleading.

23 16. As further noted above, Defendant’s misrepresentations regarding Crisco  
24 EVOO are designed to, and did, lead Plaintiff and others similarly situated (collectively  
25 the “Class”) to believe that Crisco EVOO in fact is Extra Virgin Olive Oil. Plaintiff  
26 and members of the Class relied on Defendant’s misrepresentations and would not have  
27 paid as much, if at all, for Crisco EVOO but for Defendant’s misrepresentations.

1           17. Plaintiff purchased the Crisco EVOO product based on the preceding false  
2 advertising claims. As a result, Defendant has wrongfully taken hundreds of thousands  
3 of dollars from consumers.

4           18. Accordingly, Plaintiff brings this lawsuit to enjoin the ongoing deception  
5 of thousands of consumers by Defendant, and to recover the funds taken by this  
6 unlawful practice. Plaintiff and the Class Members will be unable to rely on the Crisco  
7 EVOO product's advertising as long as Defendant's packaging continues to claim that  
8 the product is Extra Virgin Olive Oil. Plaintiff and Class Members will not purchase  
9 the Crisco EVOO product in the future, although they would like to do so, unless and  
10 until Defendant takes corrective action.

#### 11                                   **CLASS ACTION ALLEGATIONS**

12           19. Plaintiff brings this action as a class action pursuant to Rule 23 of the  
13 Federal Rules of Civil Procedure on behalf of herself and the following class  
14 (collectively, the "Class" or "Classes"), defined as:

15           **All California residents who made retail purchases of Defendant's Crisco**  
16           **EVOO product during the applicable limitations period up to and including**  
17           **final judgment in this action.**

18           20. The proposed Class excludes current and former officers and directors of  
19 Defendant, Members of the immediate families of the officers and directors of  
20 Defendant, Defendant's legal representatives, heirs, successors, assigns, and any entity  
21 in which it has or has had a controlling interest, and the judicial officer to whom this  
22 lawsuit is assigned.

23           21. Plaintiff reserves the right to revise the Class definition based on facts  
24 learned in the course of litigating this matter.

25           22. The Crisco EVOO products sold by Defendant suffer from illegal product  
26 labeling and advertising.

27           23. Numerosity: This action has been brought and may properly be maintained  
28 as a class action against Defendant under Rules 23(b)(1)(B) and 23(b)(3) of the Federal

1 Rules of Civil Procedure. While the exact number and identities of other Class  
2 Members are unknown to Plaintiff at this time, Plaintiff is informed and believes that  
3 there are hundreds of thousands of Members in the Class. Based on sales of the Crisco  
4 EVOO products it is estimated that the Class is composed of more than 10,000 persons.  
5 Furthermore, even if subclasses need to be created for these consumers, it is estimated  
6 that each subclass would have thousands of Members. The Members of the Class are so  
7 numerous that joinder of all Members is impracticable and the disposition of their  
8 claims in a class action rather than in individual actions will benefit the parties and the  
9 courts.

10 24. Typicality: Plaintiff's claims are typical of the claims of the Members of  
11 the Class as all Members of the Class are similarly affected by Defendant's wrongful  
12 conduct, as detailed herein.

13 25. Adequacy: Plaintiff will fairly and adequately protect the interests of the  
14 Members of the Class in that she has no interests antagonistic to those of the other  
15 Members of the Class. Plaintiff has retained experienced and competent counsel.

16 26. Superiority: A class action is superior to other available methods for the  
17 fair and efficient adjudication of this controversy. Since the damages sustained by  
18 individual Class Members may be relatively small, the expense and burden of  
19 individual litigation makes it impracticable for the Members of the Class to individually  
20 seek redress for the wrongful conduct alleged herein. Furthermore, the adjudication of  
21 this controversy through a class action will avoid the potentially inconsistent and  
22 conflicting adjudications of the claims asserted herein. There will be no difficulty in the  
23 management of this action as a class action. If Class treatment of these claims were not  
24 available, Defendant would likely unfairly receive thousands of dollars or more in  
25 improper revenue.

26 27. Common Questions Predominate: Common questions of law and fact exist  
27 as to all Members of the Class and predominate over any questions solely affecting  
28

1 individual Members of the Class. Among the common questions of law and fact  
 2 applicable to the Class are:

- 3 i. Whether Defendant's claim that the Crisco EVOO product is Extra  
 4 Virgin Olive Oil is accurate;
- 5 ii. Whether Defendant's product claims are properly substantiated;
- 6 iii. Whether Defendant has falsely represented that the Crisco EVOO  
 7 product has characteristics and benefits which it does not have;
- 8 iv. Whether Defendant knew that its product claims were false;
- 9 v. Whether Defendant's conduct constitutes a violation of the  
 10 Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*);
- 11 vi. Whether Defendant's conduct constitutes a violation of California's  
 12 false advertising law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*);
- 13 vii. Whether Defendant's conduct constitutes an unfair, unlawful, and/or  
 14 fraudulent business practice in violation of California's unfair competition law  
 15 (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);
- 16 viii. Whether Plaintiff and Class members are entitled to compensatory  
 17 damages, and if so, the nature of such damages;
- 18 ix. Whether Plaintiff and Class members are entitled to restitutionary  
 19 relief;
- 20 xi. Whether Plaintiff and Class members are entitled to punitive  
 21 damages; and
- 22 xi. Whether Plaintiff and Class members are entitled to injunctive  
 23 relief.

24 28. The class is readily definable, and prosecution of this action as a Class  
 25 action will reduce the possibility of repetitious litigation. Plaintiff knows of no  
 26 difficulty which will be encountered in the management of this litigation which would  
 27 preclude her maintenance of this matter as a Class action.

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1 Members are “consumers” as that term is defined by the CLRA in Cal. Civ. Code §  
2 1761(d).

3 36. The Crisco EVOO products that Plaintiff and other Class Members  
4 purchased from Defendant are amongst the “goods” within the meaning of Cal. Civ.  
5 Code § 1761(a).

6 37. Defendant’s actions, representations, and conduct have violated, and  
7 continue to violate the CLRA, because they extend to transactions that intended to  
8 result, or which have resulted in, the sale of goods to consumers.

9 38. Defendant violated California law because the Crisco EVOO products are  
10 marketed as Extra Virgin Olive Oil when they in fact are not Extra Virgin Olive Oil.

11 39. California’s Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(5),  
12 prohibits “Misrepresenting that goods or services have sponsorship, approval,  
13 characteristics, ingredients, uses, benefits, or quantities which they do not have or that a  
14 person has a sponsorship, approval, status, affiliation, or connection which he or she  
15 does not have.” By engaging in the conduct set forth herein, Defendant violated and  
16 continues to violate Section 1770(a)(5) of the CLRA, because Defendant’s conduct  
17 constitutes illegal and unlawful competition.

18 40. Cal. Civ. Code § 1770(a)(9) further prohibits “[a]dvertising goods or  
19 services with intent not to sell them as advertised.” By engaging in the conduct set  
20 forth herein, Defendant violated and continues to violate Section 1770(a)(9), because  
21 Defendant’s conduct constitutes illegal and unfair methods of competition.

22 41. Plaintiff and the Class relied upon the representation that the Crisco EVOO  
23 product was Extra Virgin Olive Oil in making their purchases of the Crisco EVOO  
24 product. In addition, given the materiality of Defendant’s misrepresentations, absent  
25 Class Members are entitled to a presumption of reliance.

26 42. Plaintiff and the Class lost money as a result of Defendant’s actions  
27 because: (a) they would not have purchased the Crisco EVOO product on the same  
28 terms absent Defendant’s illegal conduct as set forth herein, or if the true facts were

known concerning Defendant's representations; (b) they paid a higher price for Defendant's Crisco EVOO product due to Defendant's misrepresentations; and (c) Defendant's Crisco EVOO product did not have the qualities represented.

43. On or about June 20, 2018, prior to filing this action, Plaintiff sent a CLRA notice letter to Defendant which complies with California Civil Code 1782(a). Plaintiff sent The J.M. Smucker Company, individually and on behalf of the proposed Class, a letter via Certified Mail, advising Defendant that it is in violation of the CLRA and demanding that it cease and desist from such violations and make full restitution by refunding the monies received therefrom. A true and correct copy of the letter is attached hereto as Exhibit 1.

44. Wherefore, Plaintiff seeks injunctive relief, restitution, money damages and punitive damages for these violations of the CLRA.

## **SECOND CLAIM FOR RELIEF**

### **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW**

#### **(CAL. BUS. & PROF. CODE §§ 17500, *ET SEQ.*)**

#### **(By Plaintiff and on Behalf of the Class Against Defendant)**

45. Plaintiff realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

46. Plaintiff brings this claim individually and on behalf of the Members of the Class for Defendant's violations of California's False Advertising Competition Law, Cal. Bus. & Prof. Code § 17500, *et seq.* (the "FAL").

47. Under the FAL, the State of California makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

1        48. Defendant engaged in a scheme of offering the Crisco EVOO product  
2 misbranded for sale to Plaintiff and the Class Members by way of labeling the Crisco  
3 EVOO product as Extra Virgin Olive Oil when in fact it is not. Such practice  
4 misrepresented the quality of the misbranded Crisco EVOO product. Defendant's  
5 advertisements were made in California and come within the definition of advertising  
6 as contained in Bus. & Prof Code §§ 17500, *et seq.* in that the product labeling was  
7 intended as inducements to purchase Defendant's Crisco EVOO product. Defendant  
8 knew its conduct was unauthorized, inaccurate, and misleading.

9        49. Defendant violated California law because the Crisco EVOO product is  
10 labeled to be misleading and which labeling is intentionally intended to prevent the  
11 consumer from knowing the true quality of the Crisco EVOO product.

12        50. Defendant violated Section 17500, *et seq.* by misleading Plaintiff and the  
13 Class to believe that the Crisco EVOO product is Extra Virgin Olive Oil when in fact it  
14 is not.

15        51. Defendant knew or should have known, through the exercise of reasonable  
16 care that the Crisco EVOO product was and continues to be misbranded, and that its  
17 representations about the quality and nature of the Product were untrue and misleading.

18        52. Plaintiff and the Class Members lost money as a result of Defendant's  
19 FAL violations because: (a) they would not have purchased the Crisco EVOO product  
20 on the same terms absent Defendant's illegal conduct as set forth herein, or if the true  
21 facts were known concerning Defendant's representations; (b) they paid a higher price  
22 for the Crisco EVOO product due to Defendant's misrepresentations; and (c) the Crisco  
23 EVOO product did not have the benefits, or qualities as promised, and as a result the  
24 Class is entitled to monetary and injunctive relief.

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**THIRD CLAIM FOR RELIEF**

**UNLAWFUL, FRAUDULENT & UNFAIR BUSINESS PRACTICES**

**(CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.*)**

**(By Plaintiff and on Behalf of the Class Against Defendant)**

53. Plaintiff realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

54. Plaintiff brings this claim individually and on behalf of the Members of the Class for Defendant's violations of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.* (the "UCL").

55. The UCL provides, in pertinent part: "[U]nfair competition shall mean and include unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising . . . ."

56. Defendant violated California law because the Crisco EVOO product is packaged in containers that label it as Extra Virgin Olive Oil, when in fact it is not. Defendant intentionally uses such labeling in order to mislead consumers concerning the content and quality of the Crisco EVOO product.

**"Unlawful" Prong**

57. Defendant's business practices, described herein, violated the "unlawful" prong of the UCL by violating the California Consumers Legal Remedies Act, California Civil Code § 1750 *et seq.*, and the California False Advertising Law, California Business & Professions Code § 17500 *et seq.*, as detailed above. Specifically, Defendant has acted unlawfully by advertising, labeling and selling the Crisco EVOO product as Extra Virgin Olive Oil, when it is not.

**"Unfair" Prong**

58. Defendant's business practices, described herein, violated the "unfair" prong of the UCL in that its conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of

1 the conduct outweighs any alleged benefits. Defendant's advertising is of no benefit to  
2 consumers.

3 **"Fraudulent" Prong**

4 59. Defendant violated the "fraudulent" prong of the UCL, by misleading  
5 Plaintiff and the Class to believe that the Crisco EVOO product was Extra Virgin Olive  
6 Oil when it was not, and misleading Plaintiff and the Class to believe that such  
7 packaging and labeling practices were lawful, accurate, true, and not intended to  
8 deceive or mislead consumers.

9 60. Plaintiff and the Class Members are not sophisticated experts about the  
10 corporate branding, labeling, and packaging practices of the Product. Plaintiff and the  
11 Class acted reasonably when they purchased the Product based on their belief that  
12 Defendant's representations were true and lawful.

13 61. Plaintiff and the Class lost money as a result of Defendant's UCL  
14 violations because: (a) they would not have purchased the Crisco EVOO product on the  
15 same terms absent Defendant's illegal conduct as set forth herein, or if the true facts  
16 were known concerning Defendant's representations; (b) they paid a higher price for  
17 the Crisco EVOO product due to Defendant's misrepresentations; and (c) Defendant's  
18 Crisco EVOO product did not have the qualities as represented.

19 62. The conduct of Defendant as set forth above demonstrates the necessity for  
20 granting injunctive relief restraining such and similar acts of unfair competition  
21 pursuant to California Business and Professions Code. Unless enjoined and restrained  
22 by order of the court, Defendant will retain the ability to, and may engage in, said acts  
23 of unfair competition, and misleading "advertising." As a result, Plaintiff and the Class  
24 are entitled to injunctive and monetary relief in the form of restitution under Cal. Bus.  
25 & Prof. Code § 17203.

26 63. Plaintiff has assumed the responsibility of enforcement of the laws and  
27 public policies specified herein by suing on behalf of herself and other similarly-  
28 situated Class Members. Plaintiff's success in this action will enforce important rights

1 affecting the public interest. Plaintiff will incur a financial burden in pursuing this  
2 action in the public interest. An award of reasonable attorneys' fees to Plaintiff is thus  
3 appropriate pursuant to California Code of Civil Procedure § 1021.5.

4 **FOURTH CLAIM FOR RELIEF**

5 **NEGLIGENT MISREPRESENTATION**

6 **(By Plaintiff and on Behalf of the Class Against Defendant)**

7 64. Plaintiff realleges and incorporates herein by reference the allegations  
8 contained in all preceding paragraphs, and further alleges as follows:

9 65. During the Class Period, Defendant misrepresented to consumers through  
10 the advertising, marketing, and sale of the Crisco EVOO product that the Crisco EVOO  
11 product was Extra Virgin Olive Oil.

12 66. Defendant's misrepresentations were false because the Crisco EVOO  
13 product is not Extra Virgin Olive Oil.

14 67. Defendant's misrepresentations were material because a reasonable  
15 consumer would attach importance to them in determining whether to purchase and  
16 consume the Crisco EVOO product.

17 68. Defendant's material misrepresentations regarding the characteristics of  
18 the Crisco EVOO product are false and made without reasonable grounds for believing  
19 them to be true.

20 69. Defendant made material misrepresentations regarding the Crisco EVOO  
21 product with the intent to induce Plaintiff and Class members to purchase and the  
22 Crisco EVOO product.

23 70. Plaintiff and Class members reasonably relied on Defendant's material  
24 misrepresentations in choosing to purchase and consume the Crisco EVOO product.

25 71. As a direct and proximate result of Defendant's conduct, Plaintiff and  
26 Class members have incurred damages in an amount to be proven at trial. Plaintiff and  
27 Class members are not seeking damages arising out of personal injuries.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief and judgment against Defendant as follows:

(A) For an Order certifying the Class pursuant to Federal Rule of Civil Procedure 23, appointing Plaintiff as class representative, and designating Plaintiff's counsel as counsel for the Class;

(B) For an Order declaring that Defendant's conduct violated the CLRA, Cal. Civ. Code § 1750, *et seq.*, and awarding (i) injunctive relief, (ii) actual damages, (iii) punitive damages, (iv) costs of suit, and (iii) reasonable attorneys' fees;

(C) For an Order declaring that Defendant's conduct violated the UCL, Cal. Bus. & Prof. Code § 17200 *et seq.*, and FAL, Cal. Bus. & Prof. Code § 17500 *et seq.*, and awarding (i) injunctive relief, (ii) restitution, (iii) prejudgment and post judgment interest; (iv) exemplary and/or punitive damages pursuant to Cal. Civ. Code § 3294, (v) costs of suit, and (iv) reasonable attorneys' fees pursuant to, *inter alia*, Cal. Code Civ. Proc § 1021.5;

(D) For injunctive relief as pleaded or as the Court may deem proper;

(E) For an order of restitution and all other forms of equitable monetary relief, as pleaded;

(F) For compensatory damages in amounts to be determined by the Court and/or jury;

(G) For punitive damages;

(H) For prejudgment interest on all amounts awarded;

(I) For an Order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit as pleaded pursuant to, *inter alia*, Cal. Civ. Code § 1780(e) and Cal. Civ. Proc. Code § 1021.5; and

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///

(J) For such other and further relief as the Court deems just and proper.

Date: October 24, 2018

Respectfully submitted,

PACIFIC TRIAL ATTORNEYS  
A Professional Corporation

By: /s/Scott J. Ferrell  
Scott J. Ferrell  
Attorneys for Plaintiff



**DEMAND FOR TRIAL BY JURY**

Plaintiff, individually and on behalf of all others similarly situated, hereby demands a jury trial on all claims so triable.

Date: October 24, 2018

Respectfully submitted,

PACIFIC TRIAL ATTORNEYS  
A Professional Corporation

By: /s/Scott J. Ferrell  
Scott J. Ferrell  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on October 24, 2018, I electronically filed the foregoing **FIRST AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF** with the Clerk of the Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/Scott J. Ferrell

Scott J. Ferrell